



Indiana Department of Education

Dr. Katie Jenner, Secretary of Education

To: Superintendents and Special Education Directors

From: Dana L. Long, Director Dispute Resolution Supervisor
Zoretta Ward-Holloway, Complaint Investigator

Date: August 1, 2023

Subject: Indiana Education Scholarship Account Education Service Plan Guidelines

The Indiana Department of Education (IDOE) recently received several inquiries regarding the standards and procedures a school should use for a parent of an eligible student with a disability or an emancipated eligible student seeking to develop an education scholarship account education service plan (ESA-SP).

This document outlines the statutory and regulatory requirements for parentally-placed non-public students with disabilities as well as provides guidelines schools should consider after the parent or emancipated eligible student decides whether: (1) special education and related services will be provided by a public school under a service plan (SP) or (2) if special education funds will be added to an education scholarship account (ESA).

As outlined in Indiana Code (IC) 20-51.4, students with disabilities may be eligible for an ESA. Further, IC 20-51.4 requires the Indiana State Board of Education (SBOE) to develop rules for the development of the ESA-SP. As part of this rule development, a Notice of Intent to adopt a rule (LSA #23-504) was posted in the Indiana Register on June 21, 2023.

Pursuant to Proposed Rule 511 IAC 7-50,¹ the following guidelines are provided to schools. These guidelines are subject to change, if necessary, to comply with changes in the final rule.

511 IAC 7: Special Education and Related Services for Parentally-Placed Non-public School Students with Disabilities

Applicable Rules:

Rule 34 (Non-public Schools or Facilities);

Rule 49 (Provision of Special Education and Related Services by Choice Schools: and Proposed Rule 50 (Indiana Education Scholarship Account Education Service Plan)

¹ See full Proposed Rule at [Indiana Department of Education-Office of Legal Affairs](#).



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Parentally-placed non-public school students with disabilities

Students with disabilities who are placed by their parent in non-public schools are entitled to receive special education and related services unless such services are declined by their parent. When a student with a disability first enrolls in a non-public school, the school corporation of legal settlement (SCOLS) should convene the case conference committee (CCC) with the parent to develop an individualized education program (IEP), so the parent is aware of the special education and related services that would be available to the student if the student enrolled in the public school. If the parent declines the IEP² and enrollment in public school, then the school corporation where the student's non-public school is located must convene a CCC to develop an SP.

The public school corporation where the non-public school is located (local school corporation) is responsible for convening the CCC and developing and implementing SPs for parentally-placed non-public school students. The required components of the SP are set forth at 511 IAC 7-34-5. A parent has the option to accept or decline services under the SP.

Choice scholarship

If a student has a choice scholarship and the Choice school has informed the parent of the special education and related services it makes available, the parent must select either the Choice school or the local school corporation as the provider of special education and related services for the student. If the Choice school provides services, the Choice school must convene a meeting with the parent to develop a Choice special education plan (CSEP).³

ESA

Students with disabilities⁴ may be eligible for an ESA, under IC 20-51.4. If a student has an ESA, the parent may choose to have special education and related services provided by the public school under an SP, or the parent may choose to have special education funds added to the ESA so that the parent may choose which services to provide and the service providers to provide those services. Under IC 20-51.4, the parent may use funds in the account to pay for services identified in an IEP, SP, or CSEP. However, after the initial determination of eligibility for the ESA, public schools and choice schools will not continue to develop IEPs, SPs, and CSEPs for students who are not receiving services under these plans. The statute provides for SBOE to develop rules for the development of the ESA-SP.

² A public school is not required to develop IEPs on an annual basis for parentally-placed nonpublic school students, or to develop another IEP for the student unless the parent expresses an intent to enroll the student in the public school.

³ A public school is not required to develop SPs on an annual basis for choice scholarship students who elect to receive special education and related services from the choice school.

⁴ Students who have been determined eligible for special education and related services and have an IEP, SP, or CSEP.



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Under the proposed rule (Rule 50, 511 IAC 7-50), the ESA-SP would flow from the development of an IEP for the student. Because the services identified in an IEP are generally more extensive than those identified in either an SP or a CSEP, this would provide the parent more flexibility in providing special education and related services to the student with an ESA-SP.

Under the proposed rule:

If the parent of an eligible student or an emancipated eligible student declines the offer of special education and related services under the SP, the parent or emancipated eligible student must request the student's SCOLS to convene the CCC to develop an IEP. The SCOLS shall convene the CCC upon the parent's request.

The IEP developed becomes the ESA-SP for a student with an ESA who has declined services under an SP. The ESA-SP must contain a statement specifying the following:

- (1) Notwithstanding any other provision of the ESA-SP, the parent or emancipated eligible student is responsible for arranging for the provision of any of the special education and related services specified in the ESA-SP chosen for the student.
- (2) Notwithstanding any other provision of the ESA-SP, neither the SCOLS that convened the CCC to develop the ESA-SP or any other public agency is required to provide any of the services identified in the plan unless the parent or emancipated eligible student contracts with the SCOLS or public agency to provide specific services.
- (3) The parent or emancipated eligible student is responsible to arrange for payment for any contracted services.
- (4) The ESA-SP is valid for a period of time not to exceed three years, or the date the student's reevaluation is due, whichever occurs first.

SCOLS may use the [ESA-SP activation form](#). Schools should retain a copy of the ESA-SP (IEP and activation form) and provide a copy to the parent.

The ESA-SP remains valid for up to three years, or until the three-year reevaluation, whichever occurs first, unless revised by the student's CCC committee.

Reevaluation/Continued Eligibility

Public schools are not responsible for the implementation of either CSEPs or ESA-SPs. Public schools are responsible, however, to reevaluate students with disabilities at least every three years unless the public school and the parent agree that reevaluation is unnecessary. Continued eligibility for a choice scholarship or ESA is dependent on a current reevaluation (within three years).

Contact the [Dispute Resolution team](#) with any questions.

CC: [Indiana Treasurer of State and Education Scholarship Account Program Specialist]